



CHELTENHAM

BOROUGH COUNCIL

Notice of a meeting of Licensing Committee

Friday, 6 February 2015

2.00 pm

Council Chamber - Municipal Offices

Membership	
Councillors:	Roger Whyborn (Chair), Diggory Seacome (Vice-Chair), Andrew Chard, Garth Barnes, Wendy Flynn, Adam Lillywhite, Anne Regan, Rob Reid, Pat Thornton and Jon Walklett

The Council has a substitution process and any substitutions will be announced at the meeting

Agenda

1.	APOLOGIES	
2.	DECLARATIONS OF INTEREST	
3.	PUBLIC QUESTIONS These must be received no later than 12 noon on the fourth working day before the date of the meeting	
4.	MINUTES OF MEETING HELD ON 9 JANUARY 2015 9 January 2015	(Pages 1 - 4)
5.	RENEWAL OF SEX ESTABLISHMENT VENUE Report of the Licensing & Business Support Team Leader	(Pages 5 - 32)
6.	APPLICATION FOR PERMISSION TO PLACE TABLES AND CHAIRS ON THE HIGHWAY-ROTUNDA TAVERN, 3 MONTELLIER STREET, CHELTENHAM Report of the Licensing Officer	(Pages 33 - 40)
7.	ANY OTHER ITEMS THE CHAIRMAN DETERMINES TO BE URGENT AND WHICH REQUIRES A DECISION	
8.	DATE OF NEXT MEETING 6 March 2015	

Contact Officer: Annette Wight, Democracy Assistant, 01242 264130

Email: democratic.services@cheltenham.gov.uk

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Licensing Committee

**Friday, 9th January, 2015
2.00 - 2.38 pm**

Attendees	
Councillors:	Roger Whyborn (Chair), Diggory Seacome (Vice-Chair), Andrew Chard, Garth Barnes, Wendy Flynn, Adam Lillywhite, Anne Regan, Rob Reid, Pat Thornton and Jon Walklett
Also in attendance:	Vikki Fennell and Phil Cooper

Minutes

1. APOLOGIES

There were no apologies.

2. DECLARATIONS OF INTEREST

There were no declarations of interest.

3. PUBLIC QUESTIONS

There were no public questions.

4. MINUTES OF MEETING HELD ON 5 DECEMBER 2014

The minutes of the Licensing Committee held on 5 December 2014 were approved and signed as a true record.

5. APPLICATION FOR A PRIVATE HIRE DRIVER'S LICENCE

The Licensing Officer, Phil Cooper, introduced the report concerning the application from Mr MD Khairul Islam for a private hire driver's licence. He informed members that Mr Islam had passed all of the assessments required by legislation and the Council's policy, but stated that the matter was being brought to the attention of the licensing committee because Mr Islam had failed the County Council Road Safety Unit's driving assessment on four occasions before passing on the fifth attempt. Details of the failures had been circulated to Members on the background papers.

The Officer reminded members to note that whilst the assessor gave a satisfactory mark on the fifth test, comments were still made regarding Mr Islam's driving, specifically with regard to the use of the handbrake, mirrors and recognising signs and hazards.

The Officer advised that members needed to decide whether they were satisfied that Mr Islam was a fit and proper person to hold a private hire or hackney carriage licence. He also pointed out that a further option for members to consider was whether Mr Islam should take the new enhanced Driver Vehicle Standards Agency Test, which the Council had adopted as part of last year's review of the licensing policy, but which was after Mr Islam had made his application.

A member queried whether there had to be a statutory period of time between retaking the driving assessment tests, as in Mr Islam's case these seemed to be very close together except in one instance. The Officer replied that they had no control over when and how quickly someone may choose to retake the tests.

In reply to other questions from members, the Officer stated that he did not know if there was a statutory period of time that one had to wait before retaking a DVLA driving test and he confirmed that there had been no additional comments from the examiner other than those on the background papers.

Mr Islam attended the meeting and spoke in support of his application, saying that he had been nervous on taking the tests and had made mistakes, but that he had taken two lessons, considered his faults and then booked again.

In response to questions from members, Mr Islam advised that:

- He owned a car which was a Nissan Almera.
- He had had a UK driving licence for 4 years and had passed his test on the third attempt. The issues were not the same as in the County Council tests and he passed in Worcester.
- He had a clean licence with no accidents or cautions since passing his test.
- He lived and worked in Cheltenham but drove to and from Cardiff, London, Birmingham.
- Between the August and October tests he had taken two lessons in this period and practised, hence the longer gap in between.
- The recurring reason for failure of the test regarding use of mirrors, was that the examiner said he needed to use his mirrors much more frequently.

A member moved to adjourn to discuss this case.

Before adjourning, the Chair advised members that there was a further option as a resolution, that being:

- Mr Islam's application for a private hire driver's licence be deferred subject to him undertaking the Driver Vehicle Standards Agency's enhanced driving test.
- Subject to the above, Mr Islam's application for a private hire driver's licence be determined under delegated authority by officers.

A member proposed that 'in conjunction with the Chair and Vice Chair' be added to the second amendment above.

In reply to a question from a member as to the nature of the enhanced driving test, the Officer said that this was the Driver Vehicle Standards Agency Test with enhanced specifications for Hackney Carriage drivers. He confirmed that this was higher than the previously used County Council test and was now the test that the Council had adopted.

Members adjourned from the Chamber at 2.15pm.

Members returned to the Chamber with their decision at 2.35pm.

Before the decision was given, the Chairman reported that the committee unanimously had concern about the level of Mr Islam's driving competence and ability and therefore the committee agreed that Mr Islam should carry out all the tests again, including English competence, Highway Code knowledge and driving, as if he were a new applicant and that once these tests had been completed he was to come back before the Committee.

Upon a vote it was unanimous.

RESOLVED, that Mr Islam's application for a Private Hire Driver's Licence be deferred, subject to Mr Islam taking all the relevant tests relating to private hire taxi driving that a new applicant would undertake (as detailed in the paragraph above), after which the matter will come back before Committee for a decision.

As a final note of caution, the Chair advised Mr Islam to get some instruction first before taking these tests.

6. ANY OTHER ITEMS THE CHAIRMAN DETERMINES TO BE URGENT AND WHICH REQUIRES A DECISION

None.

7. DATE OF NEXT MEETING

6 February 2015

Roger Whyborn
Chairman

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Cheltenham Borough Council

Licensing Committee – 6 February 2015

Renewal of Sex Establishment Venue

Report of the Licensing & Business Support Team Leader

1. Executive Summary

- 1.1 Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982, as amended by section 27 of the Policing and Crime Act 2009, allows applicants to apply for a Sexual Entertainment Venue (“SEV”) licence where they wish to offer “relevant entertainment” (as defined at paragraph 2.5 of the report) on a frequent basis (as defined at paragraph 2.4 of the report).
- 1.2 In this case, an application for the renewal of a SEV licence was received on 15 December 2014 from Bath Road Property Limited in respect of the premises located on 12-14 Bath Road.
- 1.3 A copy of the application form is attached at **Appendix A**. A copy of the premises layout is attached at **Appendix B**, a location map at **Appendix C** and a copy of the current licence at **Appendix D**.
- 1.4 Bath Road Property Limited have not applied to change any of the terms or hours of the current issued licence but they have applied to change the trading name of the premises from “Diamond” to “Fantasy”.

2. Implications

How does the decision contribute to the Council’s Corporate Priorities?

- Cheltenham’s natural and built environment is enhanced and protected.
- Communities feel safe and are safe.
- Our residents enjoy a strong sense of community and are involved in resolving local issues.

Legal

Any applicant who is refused the renewal of a licence, may, within 21 days of being notified of the refusal, appeal to the local magistrates’ court.

However, the right to appeal does not apply where the licence was refused on the grounds that:

- the number of sexual entertainment venues in the area exceeds the number which the authority considers is appropriate
- the grant of the licence would be inappropriate considering the character of the area, the nature of other premises in the area, or the premises themselves

Contact officer: Vikki Fennell
E-mail: vikki.fennell@teWKesbury.gov.uk
Tel no: 01684 272015

2. Background

- 2.1 On 1 October 2010, Full Council approved the adoption of the amended provision of Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 to take effect in the borough on 1 December 2010.
- 2.2 Since the adoption, any premises that want to offer “relevant entertainment” on a frequent basis can only do so by obtaining a SEV licence.
- 2.3 Relevant entertainment is defined as any live performance or any live display of nudity which is of such a nature that, ignoring financial gain, it must reasonably be assumed to be provided solely or principally for the purpose of sexually stimulating any member of the audience (whether by verbal or other means).
- 2.4 Under the Act premises can provide relevant entertainment on an infrequent basis without the need for a Sexual Entertainment Venue licence. An infrequent basis is defined under the Act as no relevant entertainment has been provided on more than 11 occasions within a 12 month period and no such occasion has begun within a period of one month beginning with the end of the previous occasion, and no such occasion has lasted longer than 24 hours. Any premises which wish to offer relevant entertainment more frequently are required to apply for a Sexual Entertainment Venue licence.

3. Consultation

- 3.1 The applicant has advertised the application in accordance with the statutory requirements set out in Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982.

Consultation – Objections

- 3.2 In determining the application, Members must have due regard to any observations made by the Chief Officer of the Police and any other comments made by anybody else.
- 3.3 Members are to note in particular that any objection must relate to either the mandatory or discretionary grounds for refusal set out below.
- 3.4 Objections made on moral grounds or values are not relevant to either the mandatory or discretionary grounds for refusal and should therefore not be considered relevant.

Consultation – Chief Officer of Police

- 3.5 No objection or comments were received from the Chief Officer of Police for Gloucestershire Constabulary.

Consultation – Other Persons

- 3.6 Twenty five representations were received in relation to this application from local residents. These are enclosed as background papers.
- 3.7 A summary of the salient issues raised by the objectors are listed below. Members are to note that the intention of the summary below is to identify the salient issues raised by the objectors. Members should read the accompanying background papers to ensure you are aware of all the issues raised by the objectors.
 - **Policy** – The fact that the Council’s policy has now changed in respect of the relevant locality and that the premises in question is now situated in an area not deemed appropriate for the licensing of SEVs.

- **Character of the relevant locality** – The operation of the premises as a SEV is inappropriate given the character of the locality in that it is situated near a public park, a bus stop, largely residential in nature, near shops, places sensitive for religious purposes and other leisure facilities frequently used by families.

The licensed SEV detracts from the character and appeal of the local area.

The licensed SEV has affected the reputation of the town and the public image of the town and the local area will be improved by the refusal of the application.

- **Objectification of women** – The operation of the premises objectifies women as sexual objects and promotes sexual exploitation and creates a “no go” area for women and young girls at night.
- **Petition** – in 2014 local residents signed a 1000 strong petition objecting to the SEV in the local area.
- **National Guidance** – Reference to the Parliamentary Under-Secretary of State for Crime Reduction’s opening remarks in the national guidance stating “...the Government’s intention to give local people greater say over the number and location of lap dancing clubs in their area”.
- **Moral objections** – It’s morally wrong for the council to consider an application in the first place and by granting it the council is overtly supporting the promotion of sexual entertainment.
- **Adjacent premises** – Residents suffer from noise, litter, obstructive parking and anti-social behaviour from bars & clubs in the vicinity.

4. Policy Considerations

- 4.1 The Council’s adopted policy statement in relation to the regulation and control of SEV’s was adopted by full Council on 13 October 2014 and this policy statement sets out the Council’s guidance, application procedure, terms and conditions relating to the regulation of SEVs.

Renewal of a Licence (paragraph 8)

- 4.2 The Council will determine renewal applications on individual merits taking into account the facts of the application and any objections received. Opposed applications will be referred to the Council’s licensing committee for determination. The Courts have confirmed that Councils are entitled to look afresh at renewal applications and, accordingly, it is open to the Council to refuse to renew a licence even where there has been no change in the character of the relevant locality, or in the use to which any premises in the locality are put. (para 8.3)

Determination (paragraph 10)

Mandatory Grounds for Refusal

- 4.3 A licence *cannot* be granted:
- a) to any person under the age of 18 years;
 - b) to any person who is for the time being disqualified due to the person having had a previous licence revoked in the area of the appropriate authority within the last 12 months;

- c) to any person, other than a body corporate, who is not resident in an EEA State or was not so resident throughout the period of six months immediately preceding the date when the application made; or
- d) to a body corporate which is not incorporated in an EEA State; or
- e) to any person who has, within a period of 12 months immediately preceding the date when the application was made, been refused that grant or renewal of a licence for the premises, vehicle, vessel or stall in respect of which the application is made, unless the refusal has been reversed on appeal.

Discretionary Grounds for Refusal

4.4 A licence *may* be refused where:

- a) the applicant is unsuitable to hold the licence by reason of having been convicted of an offence or for any other reason;
- b) if the licence were to be granted, renewed or transferred the business to which it relates would be managed by or carried on for the benefit of a person, other than the applicant, who would be refused the grant, renewal or transfer of such a licence if he made the application himself;
- c) the number of SEVs in the relevant locality at the time the application is made is equal to or exceeds the number which the Council consider is appropriate for that locality (nil may be an appropriate number for these purposes);
- d) the grant or renewal of the licence would be inappropriate, having regard:-
 - to the character of the relevant locality; and/or
 - to the use to which any premises in the vicinity are put; and/or
 - to the layout, character or condition of the premises, vehicle, vessel or stall in respect of which the application is made.

Location of Premises (paragraph 11)

- 4.5 In deciding the appropriate number of premises to be licensed, the Council must consider the character of the relevant locality and what is the appropriate number of SEVs for the relevant locality. The number can be 'nil'. (para. 11.1)
- 4.6 Cheltenham is a relatively small urban borough that is predominantly residential in nature. The Council has already resolved that it is inappropriate to licence SEVs in or in the vicinity of, amongst others, residential areas. It is the Council's policy therefore that there is no locality outside of the adopted Central Shopping Area in which it would be appropriate to license a SEV. Accordingly the appropriate number of SEVs for outside of the adopted Central Shopping Area is nil. (para. 11.2)
- 4.7 The Council recognises however that the Central Shopping Area offers a more unique situation in as much as it has a much wider mix on offer, particularly in the night time economy and it may therefore be appropriate to consider applications for SEVs in the area. The Council has therefore resolved that it will not set a limit on the number of permitted SEVs in the adopted Central Shopping Area providing those premises are not near properties with sensitive uses or in sensitive locations. (para. 11.3)
- 4.8 A copy of the plan showing the adopted Central Shopping Area is attached at **appendix E**.

Properties with sensitive uses or in sensitive locations

- 4.9 In considering if the grant, renewal or variation of the licence would be inappropriate, having regard to the character of the relevant locality or to the use to which any premises in the vicinity are put, the Council shall consider, inter alia, whether the grant of the application would be appropriate, having regard to:
- a) The fact that the premises are sited in a residential area;
 - b) Whether the premises are sited near shops used by or directed at families or children, or on frontages frequently passed by the same;
 - c) Whether the premises are sited near properties which are sensitive for religious purposes e.g. churches, mosques, temples; and/or
 - d) Whether the premises are sited near premises or areas which are sensitive because they are frequented by children, young persons or families, including but not limited to educational establishments, leisure facilities such as parks, libraries or swimming pools, markets and covered markets. (para 11.4)

5. National Guidance

- 5.1 The government has issued non-statutory guidance to aid local authorities carrying out their functions under Schedule 3, as amended by section 27.
- 5.2 Although it is non-statutory guidance, local authorities are encouraged to have regard to the guidance when exercising their functions (although there is no statutory requirement to do so) in order to promote best practice and consistency across England and Wales.

Meaning of Sexual Entertainment Venue

- 5.3 Paragraph 2A of Schedule 3 as inserted by section 27 sets out the meaning of a 'sexual entertainment venue' and 'relevant entertainment' for the purposes of these provisions. A sexual entertainment venue is defined as "any premises at which relevant entertainment is provided before a live audience for the financial gain of the organiser or the entertainer." (para 2.1)
- 5.4 The meaning of 'relevant entertainment' is "any live performance or live display of nudity which is of such a nature that, ignoring financial gain, it must reasonably be assumed to be provided solely or principally for the purpose of sexually stimulating any member of an audience (whether by verbal or other means)." An audience can consist of just one person (e.g. where the entertainment takes place in private booths). (para 2.2)

Refusal of a Licence

- 5.5 When considering an application for the grant, renewal or transfer of a licence the appropriate authority should have regard to any observations submitted to it by the chief officer of police and any objections that they have received from anyone else within 28 days of the application. Any person can object to an application but the objection should be relevant to the grounds set out in paragraph 12 for refusing a licence. Objections should not be based on moral grounds/values and local authorities should not consider objections that are not relevant to the grounds set out in paragraph 12. Objectors must give notice of their objection in writing, stating the general terms of the objection. (para. 3.23)

- 5.7 When determining a licence application, the local authority must have regard to any rights the applicant may have under Article 10 (right to freedom of expression) and Article 1, Protocol 1 (protection of property) of the European Convention on Human Rights. (para. 3.30)
- 5.8 The Provision of Services Regulations 2009 amended Schedule 3 to the 1982 Act to state that, if having considered an application for the grant, renewal or transfer of a licence, the appropriate authority decides to refuse it on one or more of the above grounds, it must provide the applicant with reasons for the decision in writing. (para. 3.31)

Relevant Locality

- 5.9 Paragraph 12(3)(c) and 12(3)(d) of Schedule 3 allow appropriate authorities to refuse applications on grounds related to an assessment of the “relevant locality”. A licence can be refused if either, at the time the application is determined, the number of sex establishments, or sex establishments of a particular kind, in the relevant locality is equal to or exceeds the number that the authority considers appropriate for that locality; or that a sex establishment would be inappropriate having regard to the character of the relevant locality, the use to which any premises in the vicinity are put or the layout, character or condition of the premises. Nil may be the appropriate number. (para. 3.32)
- 5.10 Schedule 3 to the 1982 Act does not define “relevant locality” further than to say that:
- a. in relation to premises, it is the locality where they are situated; and
 - b. in relation to a vehicle, vessel or stall, any locality where it is desired to use it as a sex establishment. (para. 3.33)
- 5.11 Clearly, the decision regarding what constitutes the ‘relevant locality’ is a matter for the appropriate authority. However, such questions must be decided on the facts of the individual application. (para. 3.34)
- 5.12 Therefore, it is reasonable and potentially useful to future applicants, for a local authority to decide in advance of receiving any applications that certain areas are, or are not, appropriate locations for a sex establishment or a particular number of sex establishments. Nevertheless, all applications must be considered on their individual merits. (para. 3.35)

Licence Conditions

- 5.13 Once the appropriate authority has decided to grant a licence they are able to impose terms, conditions and restrictions on that licence, either in the form of conditions specific to the individual licence under paragraph 8 of Schedule 3 or standard conditions applicable to all sex establishments, or particular types of sex establishments, prescribed by regulations made by the appropriate authority under paragraph 13 of Schedule 3. (para. 3.39)

The Services Directive

- 5.14 Schedule 3 to the 1982 Act constitutes an authorisation scheme under Article 9 of the EU Services Directive 2006/123/EC (“the Directive”) which was implemented in the UK by the Provision of Services Regulations 2009 (“2009 Regulations”), which came into force on 28th December 2009. Local authorities must ensure they comply with the Regulations when applying the licensing provisions in Schedule 3. (para. 3.53)

6. Probity in Licensing

- 6.1 Cheltenham Borough Council's Licensing Committee operates in a quasi-judicial way in determining contentious licensing applications, policy issues and related matters.
- 6.2 The decisions that the Committee makes are significant and weighty. The Committee operates, for the most part, under its extensive delegated powers and it, rather than any other part of the Council, actually makes the decisions. The decisions can have a considerable effect on the value of premises or other capital assets, on the amenities of people living near licensed premises and on the lives of applicants. Furthermore if the Committee makes a wrong or irrational decision this may mean that the Council will face substantial costs if there is a successful appeal against the decision or if the decision is the subject of a legal challenge from an aggrieved third party.
- 6.3 Some licensing legislation specifies procedures to be followed but in all cases human rights and natural justice considerations dictate that the Committee adheres to the following principles in that decisions must:
- Be made on the individual merits of a case.
 - Have regard to all relevant national and local guidance.
 - Be made impartially and in good faith.
 - Be made by the body that receives all the relevant information and evidence.
 - Relate to the issue or question placed before the committee.
 - Be based only on consideration of relevant and material matters.
 - Be rational and reasoned.
 - Be made in a way that does not give rise to public suspicion or mistrust.
- 6.4 Licensing Committee Members must vote in the best interests of the Borough as a whole and must not vote on the basis of local ward interests that may be contrary to a balanced licensing assessment in the light of the evidence before the members and wider policies and guidance.
- 6.5 Licensing applications must be determined on the basis of the documents and information that have been formally submitted and where all parties have had a proper opportunity to consider them.
- 6.6 Members must read and carefully consider the content of the circulated report before the meeting and they must have regard to its contents in reaching their decisions.
- 6.7 Where Members propose to make a decision contrary to the officer recommendation, clear licensing reasons must be established and these must be seconded and minuted.

7. Officer Comments

- 7.1 When determining an application for the renewal application of an existing licence, the committee must have regard to its adopted policy statement, the relevant guidance issued by the Home Office, the relevant statutory provisions and any objections or comments made by the Chief Officer of Police and other persons.
- 7.2 In relation to this application, 25 representations were received from local residents. A number of issues have been raised by objectors that require clarification:
- a) **Moral objections** – Members are to note that moral objections cannot be considered relevant because the Council recognises that Parliament has made it lawful to operate a sex establishment and that such businesses are a legitimate part of the retail and leisure industries. It is this Council's role as the Licensing Authority to administer the licensing regime in accordance with the law.

Furthermore moral objections do not relate to any of the specified grounds for refusal as outlined in paragraphs 4.3 and 4.4.

- b) **Other premises in the vicinity** – This application must be determined on its individual merits. It would therefore not be appropriate for the committee to take into account any comments relating to the operation of other licensed premises in the vicinity.
- c) **Petition** – A number of respondents have made reference to a petition signed by local residents in 2014. Members are cautioned not to add too much weight to this because the petition did not directly relate to this application but instead the wider policy issue that has already been debated and decided upon.
- d) **Objectification of women** – Members are again reminded that moral objections should not be taken into consideration.

7.3 Members must decide what weight to add to comments made based on the evidence presented to the committee that relates to the issues raised.

7.4 The Council's policy in relation to the licensing of SEVs has changed since the initial grant of the licence in 2014. The Council's new policy defines areas that it considers appropriate for the licensing of SEVs and other areas in which it has resolved to adopt a zero limit.

7.5 In relation to this application, the premises in question is situated in the relevant locality deemed to be *inappropriate* under the new policy for the licensing of SEVs. See **appendix E** for reference.

7.6 This is an important point for the committee to consider because notwithstanding the policy position, paragraph 3(d) of schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 states that a licensing authority *may* refuse a licence application if "...the number of sex establishments in the relevant locality at the time the application is made is equal to or exceeds the number which the authority consider is appropriate for that locality".

7.7 Members are to note however that the policy must not fetter the committee's discretion to consider the individual circumstances and merits of the application but equally the committee must not arbitrarily deviate from its policy without good reason.

7.8 Having considered all the relevant matters, the committee must decide whether to:

- a) Grant the application as applied for;
- b) Grant the application subject to any additional terms, conditions and/or restrictions that are either specific to the licence or standard conditions; or
- c) Refuse the application.

Background Papers

Service records

Sexual Entertainment Venues: Guidance for England and Wales (March 2010)

Cheltenham Borough Council Sexual Entertainment Venue Policy Statement adopted October 2014

Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982, as amended by section 27 of the Policing and Crime Act 2009

Contact Officer

Mr Louis Krog

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Tel no: 01242 775200

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Not used by + checked 18/12/14
Ask letter 11/12/14

LOR 12/1/15
PN Hill 5/1/15
Date Rec - 15/12/14



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LICENCE APPLICATION
14/02355/SEX R -

NOTE Please read the explanatory notes attached before completing this application form

Local Government (Miscellaneous Provisions) Act 1982 Schedule 3
APPLICATION FOR A SEXUAL ENTERTAINMENT VENUE LICENCE

PLEASE NOTE
All applicants must complete Section A.
Section B to be completed if applicant is a company.
All applicants must sign declaration in Section C.

SECTION A

Application type (please tick ✓)
 New application Renewal of existing licence
 Transfer of licence Variation of licence

If renewal please state existing licence number
13/02296/SEXA

Applicant's details:
Surname
DURRANT

Forename(s)
Bianca Denicia Carolina

Address:
15, Chepstow Parc
Downend
Bristol
Post Code: BS16 6SQ

Date of birth [dd/mm/yyyy]
06/10/1979

National Insurance number

Daytime telephone number

Fax number

Email address

Agent acting on behalf of applicant (eg solicitor) if applicable:

Name of agent:

Address of agent:

Post code

Daytime telephone number of agent

Email address of agent

Name under which the business is to be known and traded as

Fantasy.

Address of premises for which this application is made

12-14 Bath Road.

Cheltenham

Post code

GL53 7HA.

For what purpose do you intend to use this premises?

eg sex shop, sex entertainment venue

Lap Dancing club.

Do you have planning consent to use the premises stated above for the purpose intended?

(please provide details, and forward appropriate documentation to evidence this)

Yes.

If this application relates to a vehicle, vessel or stall please give description (including site to be situated on)

Proposed days and hours of operation

(please tick ✓ and specify times for each day using the 24 hour clock) eg: 23:00 that day or 02:00 on the day following

<input type="checkbox"/> Sunday -	from	until	hours
<input checked="" type="checkbox"/> Monday -	from 22:00	until 04:00	hours
<input checked="" type="checkbox"/> Tuesday -	from 22:00	until 04:00	hours
<input checked="" type="checkbox"/> Wednesday -	from 22:00	until 04:00	hours
<input checked="" type="checkbox"/> Thursday -	from 22:00	until 04:00	hours
<input checked="" type="checkbox"/> Friday -	from 22:00	until 04:00	hours

Saturday - from 22:00 until 04:00 hours

Have you ever been convicted by a Court for any offence which is not now spent under the terms of the Rehabilitation of Offenders Act 1974?

- Yes
 No

(please tick ✓ as appropriate)

If Yes, please give details
 All unspent convictions must be disclosed (if renewal application, since you last applied for a licence)

(please continue on a separate sheet if necessary)

Date of Conviction	Name of Convicting Court	Nature of Offence

Are there any criminal proceedings against you pending?

- Yes
 No

(please tick ✓ as appropriate)

If Yes, please give full details including date of hearing and name of Court

Have you been a director or company secretary of a company involved in the ownership or operation of a sexual entertainment venue licence previously?

- Yes
 No

(please tick ✓ as appropriate)

If yes, please give details

Fantasy Gentlemen's Club
 Cheltenham.

Were there any convictions recorded against that company?

- Yes
 No

(please tick ✓ as appropriate)

If yes, please give details

SECTION B

To be completed if the applicant is a company

Company name

Bath Road Property Limited

Company address

Fantasy
12-14 Bath Road

CHELETTHAM

Post code GL53 7HA

Company telephone number

07752164209

Company fax number

Company email address

Fantasyclubchelletham@gmail.com

Full names and private addresses of all directors or other persons responsible for management of the company:

1	2	3
Name Bianca Durand	Name: Carmino Di Iorio	Name: Domenico Salattino
Address: 15, Cheslow Park Downend Bristol	Address: 228 Ferndale Road Swindon	Address: 153 Albion Street Swindon
Post Code: BS16 6SQ	Post Code: SN2 1HP	Post Code: SN1 5LP
Date of birth: 06/12/1978	Date of birth: 07/07/1975	Date of birth: 27/01/1982
National Insurance no.	National Insurance no.	National Insurance no.

Any convictions recorded against that person or those persons

Name and date of conviction	Name of convicting Court	Nature of offence	Sentence (if imposed)

Are there any criminal proceedings against that person or those persons pending?

Yes

No

(please tick ✓ as appropriate)

If **Yes**, please give full details including date of hearing and name of Court

SECTION C

Declaration

All new and variation applications for sexual entertainment venue licences are considered by the Licensing Committee. Opposed applications for renewal and/or transfer will also be considered by the Licensing Committee. The applicant and/or their representative are required to attend the meeting of the Licensing Committee at which their application is due to be considered to speak in support of their application. They should be prepared to answer any questions which the Licensing Committee may wish to ask.

PLEASE NOTE

This application must be signed by the applicant personally or, in the case of a company, by a director or other duly authorised agent of the company.

I/We confirm that the contents of this application are true and correct.

I/We agree that if a licence is granted by Cheltenham Borough Council for a sexual entertainment venue licence, that I/we will comply with all Acts, Byelaws, Regulations and Conditions relating thereto and for the time being in force.

I/We understand that non-compliance with any relevant Acts, Byelaws, Regulations and Conditions will prejudice the continuance of any licence granted.

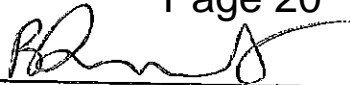
I/We understand that the council may utilise the information contained herein for internal purposes and may disclose the information to persons or organisations in accordance with the council's registration under the Data Protection Act 1998.

I/We, the undersigned, hereby apply for registration as a sexual entertainment venue licence within the Borough of Cheltenham and I/we declare that to the best of my/our knowledge and belief the foregoing statements are true and correct.

I/We understand that this licence will expire 1 year after it has first been granted or after a period of time decreed by the Licensing Committee, and a newly completed application form will need to be submitted to the local authority **two months before the expire of the existing licence, together with the licence fee current at that time.**

I/We further understand that once the completed application form has been submitted it will be submitted to environmental health, planning, building control and community safety officers of Cheltenham Borough Council together with the local police, fire service, parish councils, ward members or any other interested party for comment.

I/We understand that I/we must submit a copy of this application form to the chief officer of police for the area in which the premises are located and all other Responsible Authorities.

Signature of applicant (s) 

Name (s) in BLOCK CAPITALS BIANCA DURRANT

Capacity in which application is signed (see note above) Signed by Bianca Durrant on behalf of Bath Rd Properties Ltd (Shareholder)

Date 15/02/2014

How to apply for a sexual entertainment venue licence

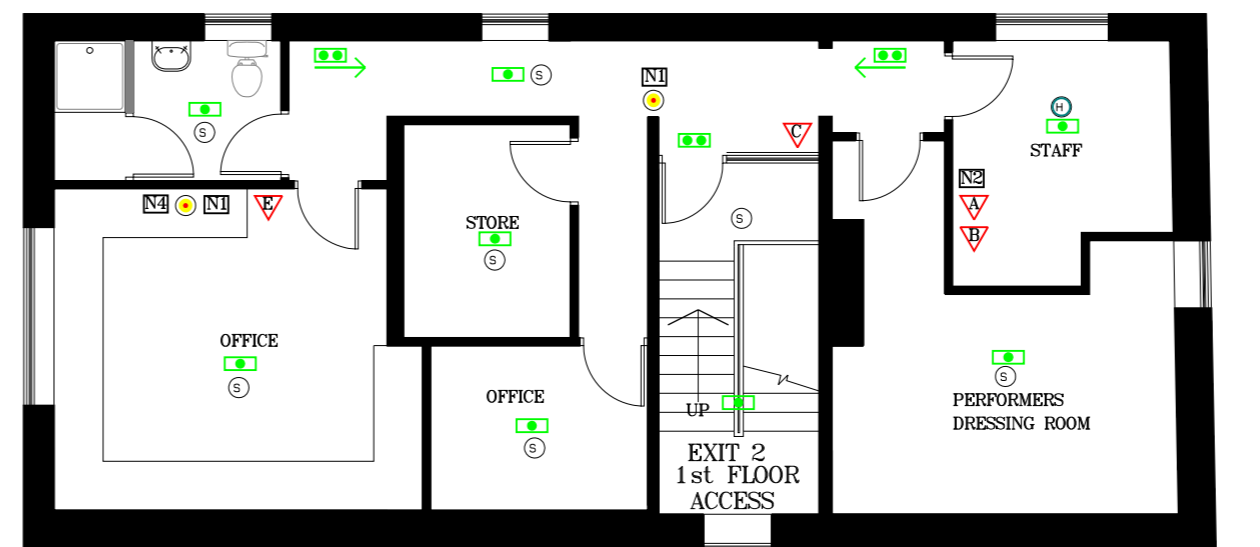
This application and the appropriate supporting documentation should be forwarded to the Licensing Team at the address on the front of this form.

Please read the guidance notes that accompany this application form. Failure to comply with the application procedure could result in a licence not being granted.

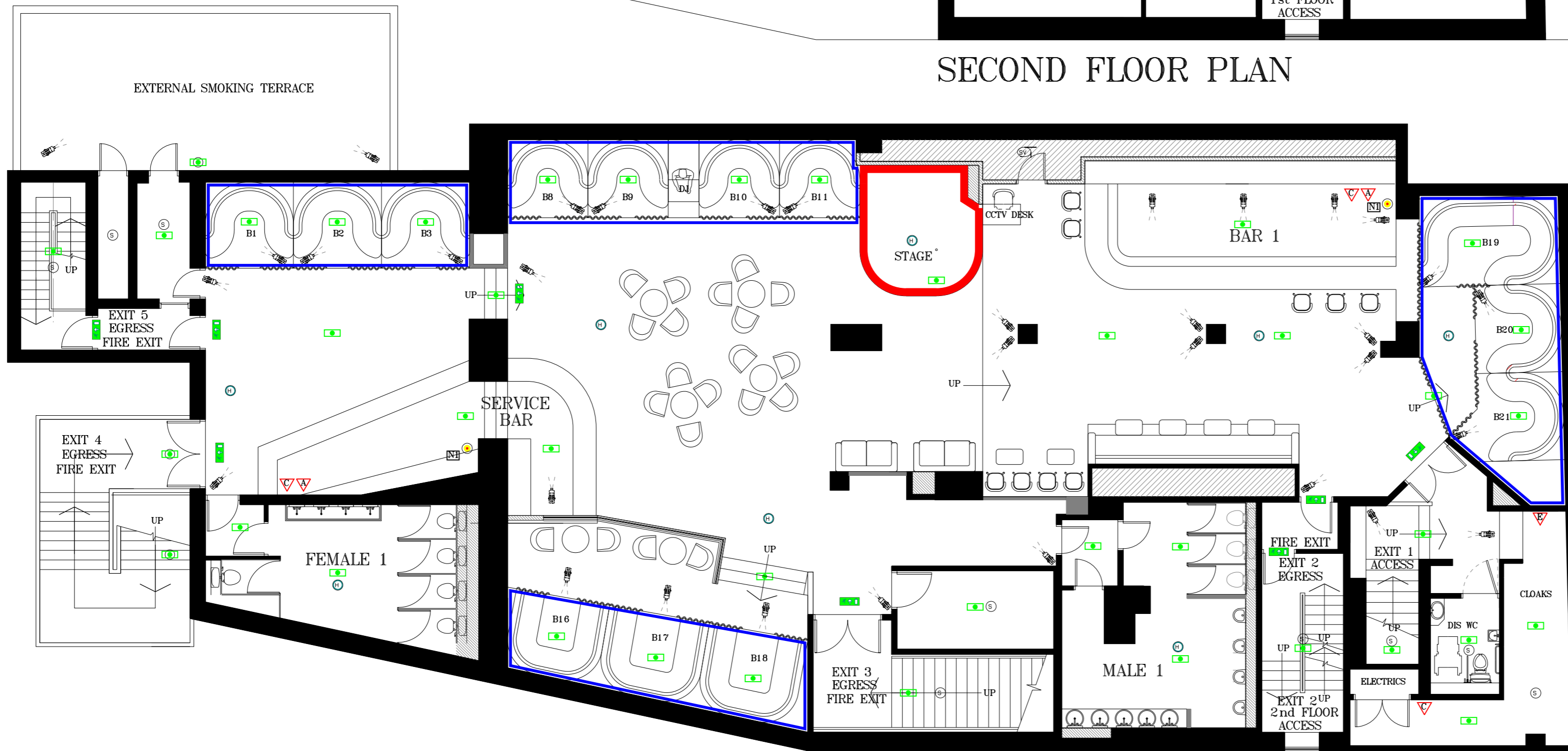
The following are required in order to proceed with the application:-
please tick the boxes below ✓ to confirm you have sent them

- **Application form** (all sections completed)
- **Copies of plans** delineating the specific rooms or premises to which this application relates, with escape routes (in case of emergency) indicated.
- **Copies of a location plan** showing the vicinity of the proposed premises with the premises themselves clearly marked.
- **Planning consent documentation** as confirmation that you have permission to use the premises for the purpose for which you are making this application.
- Any **additional information** in support of the application.
- **What you need to show to establish your identity**
This will be required from the applicant named in Section A
- **Driving Licence original(s) for inspection (paper and photo card counterpart)** which will be photocopied by an officer from Licensing Team. *If you do not have a valid photo card driving licence then a valid passport must be shown to the Licensing Officer.*
- **If none of the above are available then please supply one of the following original documents-**
Original birth certificate (or similar official document if born outside UK)
P45 / P60 Statement
Marriage certificate, passport

If you have any queries or require assistance in completing the application form, please contact our Licensing Team at the address on the front of this form, or telephone 01242 775200.



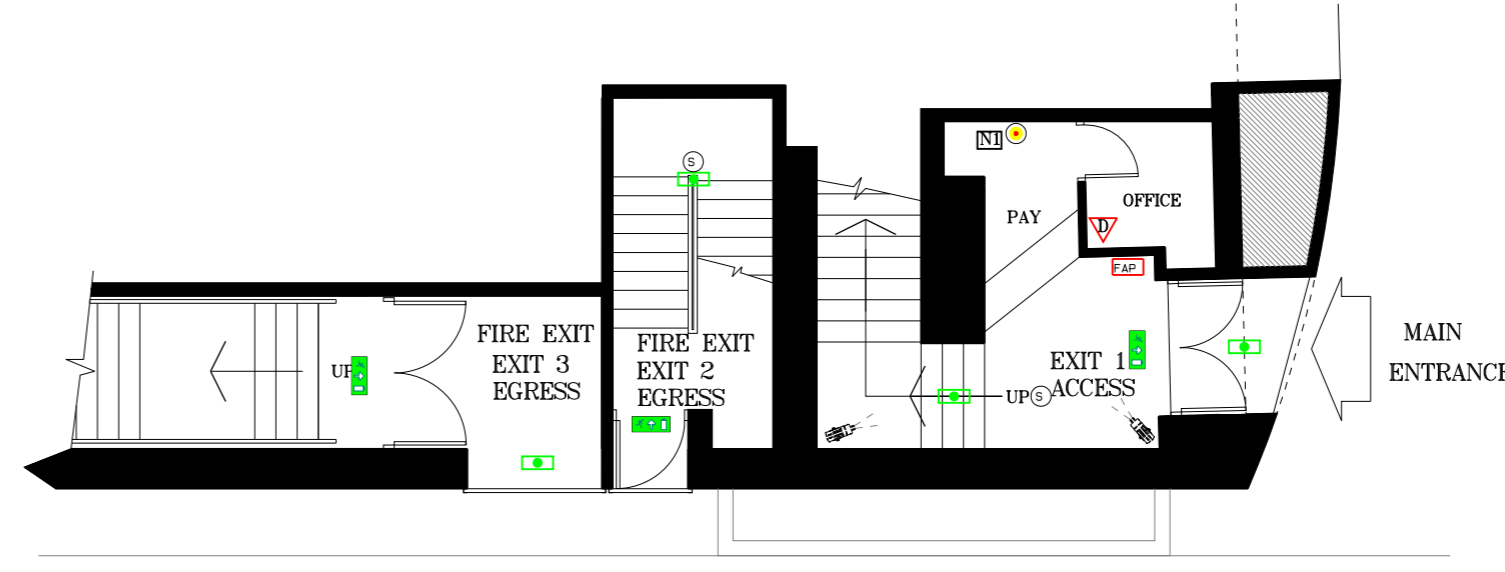
SECOND FLOOR PLAN



FIRST FLOOR PLAN



FRONT ELEVATION



GROUND FLOOR PLAN

- FIRE ALARM**
- VD VOID DETECTOR
 - RL REDCARE LINE
 - SD SMOKE DETECTOR
 - SS SMOKE DETECTOR / FIRST STAGE SOUNDER
 - HD HEAT DETECTOR
 - HSD HEAT DETECTOR / FIRST STAGE SOUNDER
 - CS COMBINE SMOKE & HEAT DETECTOR
 - MC MANUAL CALL POINT
 - FS-LED FIRST STAGE SOUNDER-LED
 - FS-NEON FIRST STAGE SOUNDER-NEON
 - VE VOICE EVACUATION SOUNDER
 - VPS VOICE EVACUATION PROJECTION SOUNDER
 - FB FLASHING BEACON
 - INT INTERFACE
 - FAP FIRE ALARM PANEL
 - FARP FIRE ALARM REPEATER PANEL
 - DRP DISABLE REFUGE INTERCOM POINT

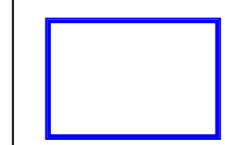
- EMERGENCY LIGHTING**
- EL-240V EMERGENCY LIGHT 240V N/M3 BULKHEAD LIGHT BOH
 - EL-28W EMERGENCY LIGHT 240V N/M3 PUBLIC AREA COMBINE 28 WATT 2D DECORATIVE FITTING
 - ES-240V EMERGENCY SIGN 240V M3
 - BOH-AC5004 EMERGENCY SIGN 240V N/M3 BOH REF AC5004 PUBLIC AREA AC5019
 - EL-240V EMERGENCY / CLEANERS LIGHT 240V N/M3 IP20 TWIN SPOT WITH MULTI DIRECTIONAL HEADS REF AC5007

- FIRE EQUIPMENT**
- 6kg MPFE 6kg MULTI-PURPOSE FOAM EXTINGUISHER
 - FB FIRE BLANKET
 - 2kg CD 2kg CARBON DIOXIDE EXTINGUISHER
 - AFF AQUARIUS FOAM FILLED
 - 6ltr MPWE 6ltr MULTI PURPOSE WATER EXTINGUISHER
 - DP DRY POWDER

- FIRE NOTICES**
- NI GENERAL BY EACH CALL POINT
 - ST STAFF
 - K KITCHEN
 - DM DUTY MANAGER
 - CCV CCTV CAMERAS



AREA BOUNDED BY THE RED LINE INDICATES THE AREA WHERE PERFORMANCES TAKE PLACE



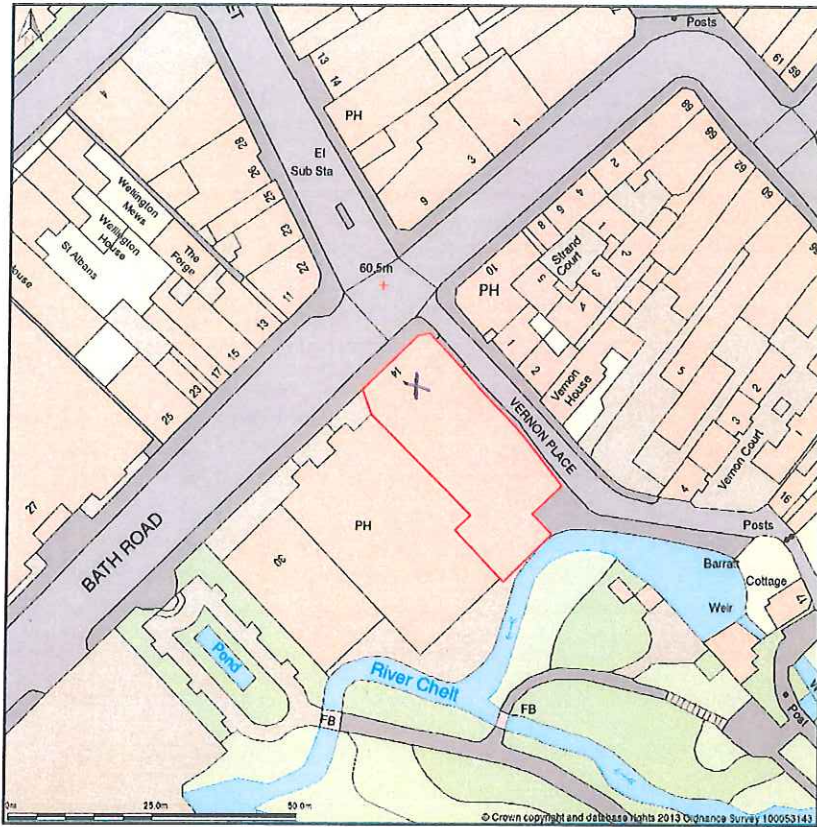
AREA BOUNDED BY THE BLUE LINE INDICATES THE AREA WHERE PRIVATE SCREENED PERFORMANCES TAKE PLACE

Easy Design Solutions
EDS Studio 48
 Bachelor Road
 Harrogate
 HG1 3EQ
 grt@easy-designs.co.uk
 mob: 07903730044

Client FANTASY CLUBS
 Project FANTASY CHELTENHAM GL53 7HB
 Title EXISTING & PROPOSED PLANS
 Drawn by GRT Date DEC-14
 Directory FEVEER GROUP Scale 1:100 @ A2
 Drawing no. FANT-CH-
 Proj Lib FEVEER GROUP
 Layerset FB-14-103

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12-14 Bath Road, Cheltenham, GL53 7HA



Site Plan shows area bounded by: 395056.78,222044.94 395198.2,222186.36 (at a scale of 1:1250) The representation of a road, track or path is no evidence of a right of way. The representation of features as lines is no evidence of a property boundary.

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CHEL TENHAM
BOROUGH COUNCIL

Local Government (Miscellaneous Provisions) Act 1982

SEXUAL ENTERTAINMENT VENUE LICENCE

Licence Ref No: **13/02296/SEXA**

Cheltenham Borough Council using its powers under the above legislation;

HEREBY GRANT LICENCE to **Bath Road Property Limited**

to use the premises known as: **Diamond**
and situate at: **12 - 14 Bath Road**
Cheltenham
Gloucestershire
GL53 7HA

This licence shall be in force from **14 February 2014 to 13 February 2015**

A fee of **£1947.00** has been paid (Receipt No. 113127)

Date of issue: **13 February 2015**

Hours which premises may be open for entertainment:

Sunday:	22:00 - 04:00	Thursday:	22:00 - 04:00
Monday:	22:00 - 04:00	Friday:	22:00 - 04:00
Tuesday:	22:00 - 04:00	Saturday:	22:00 - 04:00
Wednesday:	22:00 - 04:00		

At the start of British Summertime, the terminal hours of the operation shall be extended by one hour.

THIS Licence is granted subject to the Council's Standard Conditions for Sexual Entertainment Venue licences and any additional Special Condition(s) set out in the Schedule attached.

Caroline Jones
Executive Director *PC*

Second Schedule

General Conditions:

The premises shall only permit adult entertainment between the hours of 22:00 hours and 04:00 hours the following morning as determined by the licensing committee.

Only activities which have previously been agreed in writing by the Licensing Authority shall take place.

The agreed activities shall take place only in designated areas approved by the Licensing Authority.

There shall not be displayed outside the premises, in the immediate vicinity, or elsewhere within the Town any advertisements, photographs or images that indicate or suggest that striptease-type dancing takes place on the premises.

There are to be no hand bills delivered/handed out in Cheltenham at all.

Rules shall be produced by the licensee for customers indicating conduct that is deemed acceptable. These rules shall be prominently displayed at all tables and at other appropriate locations within the club.

A clear Notice shall be displayed inside the entrance to the premises in the following terms: "Striptease-style entertainment takes place on these premises. No persons under 18 shall be permitted in the premises."

The performance must not be visible from the street, and any person who can be observed from the outside of the premises must be properly and decently dressed. Scantily-clad individuals employed in the premises must not exhibit themselves in the entrance or in the vicinity of the premises.

When the premises are open for Striptease/Lap/Pole Dancing no person under the age of 18 shall be permitted to be on the premises. Anyone appearing to be under the age of 21 years shall be asked to produce valid photographic identification. If this is not produced the individual shall be refused access.

Conditions regarding Performers:

Striptease and similar entertainment may only take place in 'designated areas' that are marked on the plan of the premises.

The entertainment shall be provided by professional performers only. The audience must at all times remain fully-clothed.

Performers shall be aged not less than 18 years and the licence holder (or his nominated deputy who is authorised in writing) shall satisfy him/herself that this is the case by requesting valid photographic ID, if necessary, prior to the performance.

A 'Signing-in' Register shall be kept at the premises that records:

- Full name of the performer.
- Address of the performer.
- Telephone number of the performer.
- Date of birth of the performer.
- The time the performer starts & finishes at the premises.

This shall be made available for immediate inspection by a Police Officer or authorised Officers of the Cheltenham Borough Council (who will carry identification).

During any performance there must be no physical contact between the performer and any member of the viewing public.

No performances shall include any sexual act with other performers.

No performances shall include any sexual act with objects.

During any dance in the designated 'public' area of the premises, performers shall at all times wear at least a 'G-string' or similar piece of clothing, on the appropriate part of the body, which shall not be removed as part of the performance. The 'G-string' shall not be 'see-through'.

Performers shall only perform nude in the 'private' designated area which shall be clearly marked on the plan of the premises.

At the completion of the dance the performers shall dress themselves immediately and leave the designated performance area. Performers not engaged in performing shall not remain in any area in a state of undress.

Performers are not to solicit, exchange addresses or telephone numbers with customers, liaise with customers of the premises, or incite customers to purchase alcoholic drinks.

An appropriate room shall be set aside to provide changing and rest area for performers. Access to this room shall be restricted to performers only, whilst the performers are on the premises and shall be marked on the plan of the premises.

Any bodily contact between entertainers or performers or any movement that indicates sexual activity or simulated sex between entertainers or performers is strictly forbidden.

Entertainers or performers not performing must not be in a licensed area in a state of undress.

Briefing:

Prior to performers carrying out any activity on the premises, they shall be briefed (verbally or in writing) by the licence holder or his nominated deputy who is authorised in writing as to the conditions that pertain to these particular premises, including the fact that their activities will be recorded on CCTV. The performer(s) shall sign in the Register that they have been briefed.

Door-Supervisors:

Subject to a minimum of two, SIA-registered door-supervisors shall be employed at a minimum ratio of 1:50 customers on the premises whilst Striptease/Lap/Pole-dancing activity is taking place.

The licence holder or his nominated deputy who is authorised in writing or door-supervisors shall carry out regular monitoring of all areas of the premises to which the public have access, and shall intervene promptly, if necessary, to ensure compliance with Licence conditions by customers and performers.

Door-supervisors shall regularly monitor the area immediately outside the premises for a distance of 30 metres in all directions and shall take steps to deal with (by alerting the Police

If appropriate) any unsavoury activity that may be attracted to the vicinity due to the nature of the business.

A dedicated SIA-registered door supervisor shall remain at all times in any 'private' performance area where performers are performing nude, and shall intervene promptly, if necessary, to ensure compliance with the Licence conditions.

When performers leave the premises they are to be escorted to their cars or taxi by a door-supervisor or member of staff.

CCTV System:

A CCTV system shall be installed and be maintained in good working order, shall record at all times. The CCTV system is to be installed in all areas as recommended by the Police. Crime premises are open, and recordings shall be kept for 28 days (14 days for Digital systems).

The CCTV recording device, controls and recordings shall be kept under suitable security to prevent unauthorised access/tampering. Access shall be restricted to the licence holder or his nominated deputy who will be authorised in writing and no more than two designated persons.

Unaltered CCTV recordings shall be provided on request (as soon as possible and in any event within 24 hours) to the Police or authorised Officers of the Cheltenham Borough Council (who will carry identification.)

No CCTV footage is to be copied, given away or sold (except as required by Police/Council for investigation/enforcement purposes).

Except in accordance with the requirements for CCTV as described above, no photographs, films or video recordings shall be taken of the performances. Nor shall electronic transmissions of performances take place.

Special Conditions

A phone number and email address to be provided for residents/authorities to contact if there are concerns.

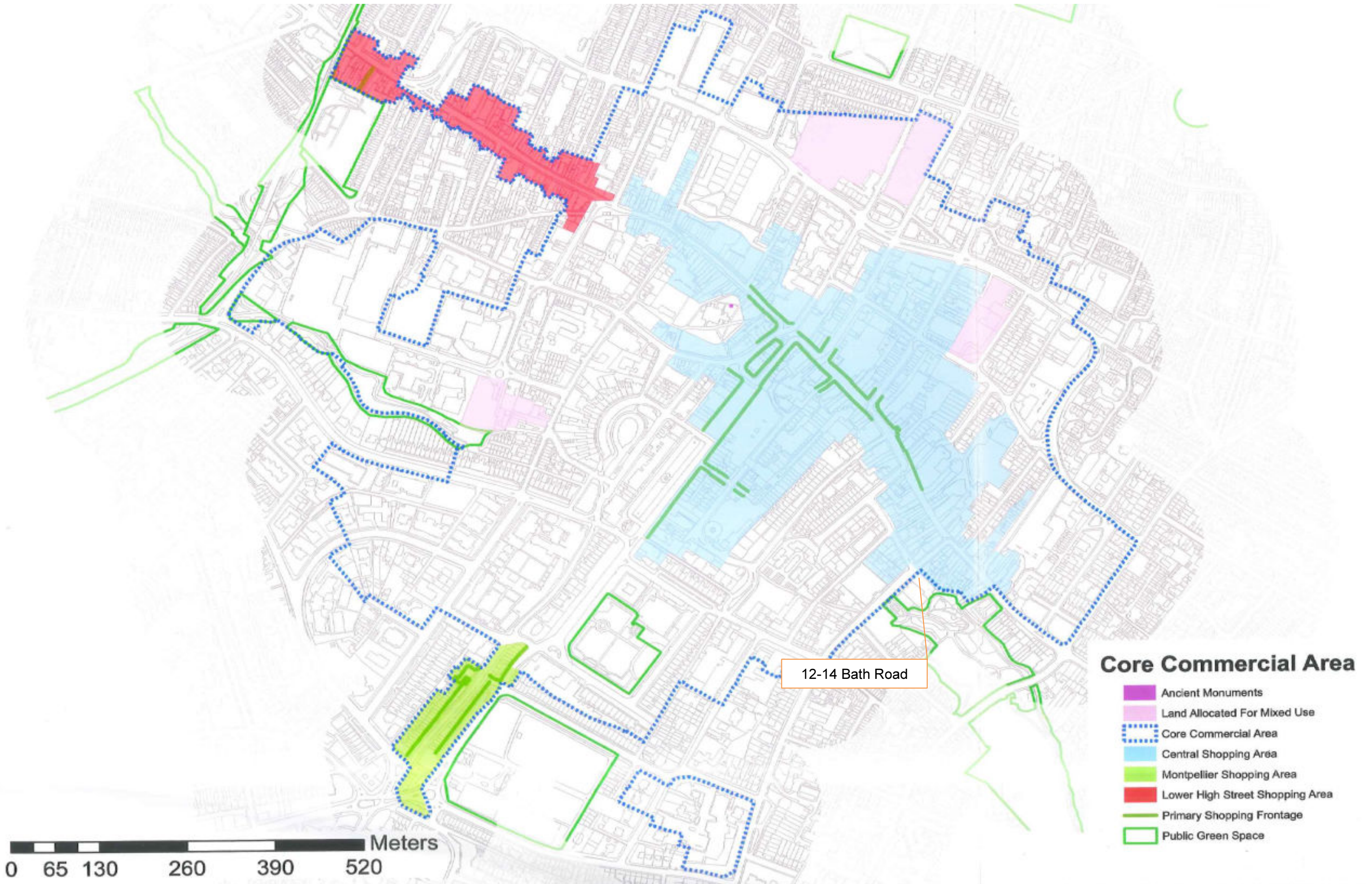
A minimum of one SIA -registered door supervisor shall be employed in the designated area where sexual entertainment is taking place and they shall intervene promptly to ensure compliance with codes of conduct /house rules.

No drinks promotions take place within the premises.

The premises will at all times fully adhere to and strictly enforce its house rules/agreement as to conduct and code of conduct.

Plan

Drawing attached VD-13-102.



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Cheltenham Borough Council

Licensing Committee – 6 February 2015

Highways Act 1980

Local Government (Miscellaneous Provisions) Act 1982

Application for Permission to Place Tables and Chairs on the Highway

Rotunda Tavern, 3 Montpellier Street, Cheltenham

Report of the Licensing Officer

1. Executive Summary and Recommendation

- 1.1 An application has been received from Mr Stephen Ashley in respect of 3 Montpellier Street, Cheltenham GL50 1SX, trading as Rotunda Tavern. The applicant has existing permission to place 4 picnic style tables with attached benches on the highway during the operating hours of the premises, and is now applying to extend that permission to 24 hours a day.
- 1.2 The existing permission authorises the street furniture to be in place at the following times:

Monday	11:00 – 23:00
Tuesday	11:00 – 23:00
Wednesday	11:00 – 23:00
Thursday	11:00 – 23:00
Friday	11:00 – 00:00
Saturday	11:00 – 00:00
Sunday	12:00 – 23:00

The application under consideration is to authorise the street furniture to be in place 24 hours a day, every day.

- 1.3 **Appendix A** shows a photograph of the furniture. **Appendix B** shows plans of how the tables and chairs will be positioned during the premises opening hours and how they will be positioned when the premises are closed.
- 1.4 **The Committee is recommended to resolve that:**
- 1.4.1 **The application be approved because Members feel the application is compatible with the current Street Scene Policy, or**
- 1.4.2 **The application be refused as the application falls outside the provisions of the current Street Scene Policy.**

1.5 Summary of implications

1.5.1 Financial

Contact officer: Sarah Didcote
E-mail: sarah.didcote@cheltenham.gov.uk
Tel no: 01242 26 4125

Contact officer: Vikki Fennell
E-mail: Vikki.Fennell@tewkesbury.gov.uk
Tel no: 01684 272015

2. Background

- 2.1 The current policy for *Town Centre Street Activities: Street Trading & Objects on the Highway* was approved on 1st April 2013. A copy of the whole policy has previously been circulated to members and extracts are included in the application pack that was given to the applicant.

3. Consultation and Feedback

- 3.1 Consultation was undertaken in accordance with the Council's consultation procedure for applications in respect of tables and chairs. Representation was received from the Council's Senior Enforcement and Compliance Officer (Planning), whose objection is as follows:

"These premises are a Grade II* Listed Building where precedence is given to protecting the special architectural character and appearance of the building. The permanent placing of these picnic style benches to the front of the building will detract from these special architectural and historic qualities and the street scene of this part of the designated central Conservation Area. (Paragraphs 3.4 and 3.4.1 of the Policy).

. . . Moreover the application conflicts with the conditions contained in Appendix G of the Policy on measures to control street scene activities as the permanent placing will be not subject to supervision when the premises are closed. Paragraph 2.1.3 makes it clear that "the enclosure shall be removed outside the hours of operation or when it is not intended to operate on the pavement within that period. The materials should therefore be lightweight in construction and portable but stable enough to prevent collapse if accidentally walked/stumbled into." This is again repeated at paragraph 2.2.4.

. . . This application is contrary to Policy. There would be no need to have tables and chairs situated and stored on the public highway permanently if they were portable and lightweight in design.

. . . The application does not meet the required quality standard, it is arguable that it will pose a risk to public safety and protection, and it clearly will prejudice the council's efforts to improve the image, perception and attractiveness of the town."

4. Policy Principles, Aims and Objectives

- 4.1 This section outlines the policies the Council will apply when making decisions on applications for consents.

- 4.2 In particular, this part of the policy will aim to promote the following aims and objectives:

- To have a clear & transparent policy governing all decisions relating to objects placed on the highway.
- To enable the Council to manage all objects placed on the highway in order to provide effective control measures.
- To ensure that all objects placed on the highway meet the required quality standards, pose no risk to public health, safety & protection and to ensure that these objects do not obstruct the highway.
- To avoid duplication with other statutory provisions and the Council's commitment to work in partnership with other enforcement agencies.

Each application is assessed against the outlined conditions included in the application pack and this policy.

No object and its associated activity may generate noise which is likely to cause nuisance or annoyance.

Any object given consent to be placed on the highway must be sufficiently weighed down or secured to ensure that the object will not cause any harm or damage.

The Council wishes, as far as is compatible with other highway uses, to promote the 'cafe culture' in Cheltenham because of the added life and vitality this brings to the town. To this end, the Council will look favourably on applications by operators in appropriate locations to put tables and chairs on the pavement outside their premises.

Consent to place tables and chairs on the highway will only be granted for the consumption of food and drink, provided they are in association with a business operating from nearby premises.

Consent to place tables and chairs on the highway will be subject to the use of canvas barriers to cordon off the area where the tables and chairs are placed on the highway.

For health and safety reasons, the Council will not permit glass top tables.

Where consent has been issued for tables and chairs to be placed on the highway the Council may permit, within reason, other objects to be placed inside the area that has been cordoned off with barriers.

5. Licensing Comments

- 5.1 The Committee must determine the application with a view to promoting the Council's adopted policy.
- 5.2 Members are to note that the applicant already has permission to place picnic style furniture at the location during the opening hours of the premises. The applicant is not seeking to alter the style, quantity or location of the furniture. The existing permission was made in July 2014 and the consultation attracted no objections, with the Planning team confirming that they did not object to the application at that time.
- 5.3 The application relates solely to extending the times during which permission is held. For that reason Members should base their decision on the effects of the furniture being *in situ* at night when the premises are not trading, rather than the style of the furniture.
- 5.4 Members should note that the Council's current adopted Policy includes the following conditions applicable to all tables and chairs permissions.
"The enclosure shall be removed outside the hours of operation or when it is not intended to operate on the pavement within that period. The materials should therefore be lightweight in construction and portable but stable enough to prevent collapse if accidentally walked/stumbled into.
All items need to be portable enough to be brought in at the end of the permitted period of each working day or in the event of an emergency."
In that respect the application being considered does not comply with the conditions because the furniture will not be brought in at the end of the working day but will remain in place 24 hours a day (at night the furniture will be moved against the building and chained and locked). However Members have the option of disapplying that condition if they are minded to grant the permission.
- 5.5 In accordance with the current Street Scene Policy members must determine and consider if an application of this type positively enhances the enjoyment and reputation of the town as a tourist and leisure destination whilst being in keeping with the streetscape.

Report Author

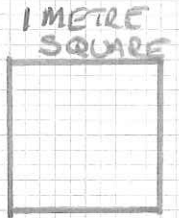
Contact: Philip Cooper
E-mail: licensing@cheltenham.gov.uk
Tel no: 01242 775200



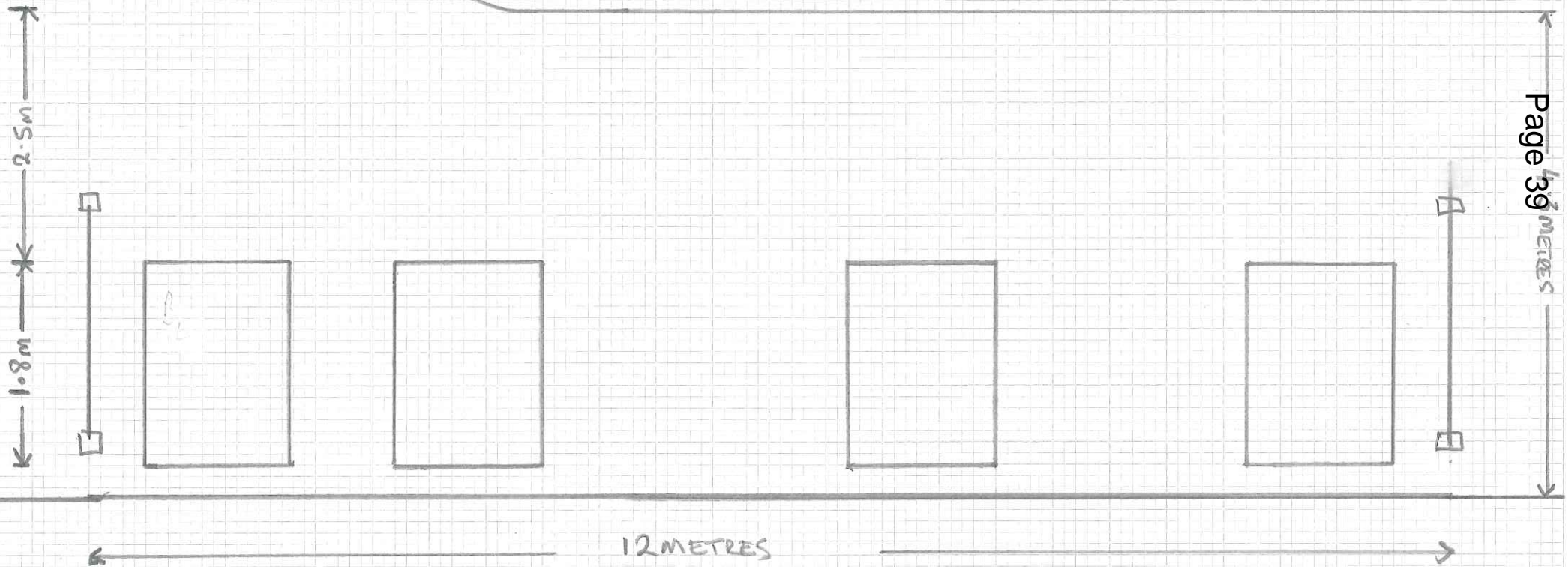
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ROTONDA TAVERN
3 MONTPELLIER ST

4 PICNIC BENCHES
1.8M X 1.3 METRES



MONTPELLIER ST
PLAN DURING OPENING HOURS



LOTUS TAVERN

3 MONTPELLIER ST

